

1 WILLIAM R. TAMAYO - #084965
2 DAVID F. OFFEN-BROWN - #063321
3 EQUAL EMPLOYMENT OPPORTUNITY
4 COMMISSION
5 San Francisco District Office
6 350 The Embarcadero, Suite 500
7 San Francisco, CA 94105-1260
8 Telephone: (415) 625-5652
9 Facsimile: (415) 625-5609

10 Attorneys for Plaintiff

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 EQUAL EMPLOYMENT OPPORTUNITY
14 COMMISSION,

15 Plaintiff,

16 v.

17 UNITED AIRLINES, INC.

18 Defendant.
19

CV 09 0784

CIVIL ACTION NO.

COMPLAINT
DEMAND FOR JURY TRIAL

20 NATURE OF THE ACTION

21 This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of
22 the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and
23 to provide appropriate relief to Samuel V. Chetcuti and others who were adversely affected by such
24 practices. Plaintiff alleges that the defendant deprived Mr. Chetcuti and others of overtime work
25 because of disability.

26 JURISDICTION

27 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343,
28 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with

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1 Disabilities Act of 1990 (ADA), 42 U.S.C. §12117(a), which incorporates by reference Section
2 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §2000e-5 (f)(1)
3 and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

4 INTRADISTRICT ASSIGNMENT

5 2. The employment practices alleged to be unlawful were and are now being committed
6 in San Francisco or San Mateo County of California within the jurisdiction of the United States
7 District Court for the Northern District of California. This action is therefore appropriate for
8 assignment to this Court's San Francisco or Oakland Division.

9 PARTIES

10 3. Plaintiff, the Equal Employment Opportunity Commission (the Commission), is the
11 agency of the United States of America charged with the administration, interpretation, and
12 enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a)
13 of the ADA, 42 U.S.C. §12117(a).

14 4. At all relevant times, Defendant United Airlines, Inc. (United Airlines) was
15 continuously a corporation doing business in the State of California and the City of San Francisco
16 and continuously had at least 15 employees.

17 5. At all relevant times, United Airlines has continuously been an employer engaged in
18 an industry affecting commerce under Sections 101(5) and 101(7) of the ADA, 42 U.S.C.
19 §§12111(5) and 12111(7).

20 6. At all relevant times, Defendant United Airlines has been a covered entity under
21 Section 101(2) of the ADA, 42 U.S.C. §12111(2).

22 STATEMENT OF CLAIMS

23 7. More than thirty days prior to the institution of this lawsuit, Mr. Chetcuti filed a
24 charge with the Commission alleging violations of Title I of the ADA by United Airlines. All
25 conditions precedent to bringing this lawsuit have been fulfilled.

26 8. Since at least March 23, 1999, United Airlines has engaged in unlawful employment
27 practices in violation of Section 102 of the ADA, 42 U.S.C. §12112(a). These practices include
28 depriving Mr. Chetcuti and others of overtime because of disability. United Airlines has maintained

1 a policy that certain groups of workers may not earn overtime while they are on light or limited duty;
2 this policy violates the ADA.

3 9. The effect of the practices complained of in Paragraph 8 above has been to deprive
4 Mr. Chetcuti and others similarly situated of equal employment opportunities and otherwise
5 adversely affect their status as employees because of disability.

6 10. The unlawful employment practices complained of in Paragraph 8 above were and are
7 intentional.

8 11. The unlawful employment practices complained of above were done with malice or with
9 reckless indifference to the federally protected rights of Mr. Chetcuti and others similarly situated.

10 PRAYER FOR RELIEF

11 Wherefore, the Commission respectfully requests that this Court:

12 A. Grant a permanent injunction enjoining Defendant United Airlines, its officers,
13 successors, assigns, and all persons in active concert or participation with it, from engaging in any
14 employment practice which discriminates on the basis of disability.

15 B. Order United Airlines to institute and carry out policies, practices, and programs
16 which provide equal employment opportunities for qualified individuals with disabilities and which
17 eradicate the effects of its unlawful employment practices.

18 C. Order United Airlines to make whole Samuel V. Chetcuti and others similarly
19 situated by providing appropriate backpay with prejudgment interest, in an amount to be determined
20 at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment
21 practices.

22 D. Order United Airlines to make whole Mr. Chetcuti and others similarly situated by
23 providing compensation for past pecuniary losses resulting from the unlawful employment practices
24 described above, in an amount to be determined at trial.

25 E. Order United Airlines to make whole Mr. Chetcuti and others similarly situated by
26 providing compensation for past and future non-pecuniary losses resulting from the unlawful
27 employment practices complained of above, including pain and suffering, emotional distress,
28

1 indignity, inconvenience, loss of enjoyment of life, loss of self esteem, and humiliation, in an
2 amount to be determined at trial.

3 F. Order Defendant to pay Mr. Chetcuti and others similarly situated punitive damages
4 for its malicious and reckless conduct, as described above, in amounts to be determined at trial.

5 G. Grant such further relief as the Court deems necessary and proper in the public
6 interest.

7 H. Award the Commission its costs of this action.

8 JURY TRIAL DEMAND


9 The Commission requests a jury trial on all questions of fact raised by its complaint.

10 Respectfully submitted,

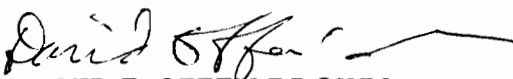
11 JAMES LEE
12 Deputy General Counsel

13 EQUAL EMPLOYMENT OPPORTUNITY
14 COMMISSION
15 131 M Street, N. E.
16 4th Floor, Room 4NE25N
17 Washington, D.C. 20507

18 Dated: 2/23/09

19 
20 WILLIAM R. TAMAYO
21 Regional Attorney

22 Dated: 2/23/09

23 
24 DAVID F. OFFEN-BROWN
25 Supervisory Trial Attorney
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